

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

KAREN MASSEY,

Civil Action File No.

Plaintiff,

v.

WAL-MART STORES EAST, LP,

Defendant.

NOTICE OF REMOVAL

COMES NOW Defendant Wal-Mart Stores, East, LP, (hereinafter "Defendant"), in the above-captioned matter, by and through its counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendant Wal-Mart Stores, East, LP in the State Court of Houston County, Georgia, which is within the Macon Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 2012V45941. Plaintiff's claims against Defendant includes claims of negligence.

2.

Plaintiff filed the Complaint on or about May 14, 2012. Defendant received service of summons and a copy of the Complaint on May 17, 2012. Defendant files this notice of Removal within thirty (30) days after service of summons and a copy of this Complaint.

3.

Defendant Wal-Mart Stores East, LP is an Arkansas Limited Partnership with its principal place of business in the State of Delaware. Defendant Wal-Mart Stores East, LP was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of said lawsuit, or at any time thereafter.

4.

Plaintiff Karen Massey is a citizen of the State of Georgia.

5.

Complete diversity of citizenship exists between Plaintiff and Defendant.

6.

Plaintiff seeks medical expenses for the treatment of her injuries. Plaintiff alleges she fell and "suffered personal injuries to, among other areas, her knees, shoulder, lower back and what felt like her right thigh." See Plaintiff's Complaint

¶14. Plaintiff alleges as a result of these injuries, she has suffered mental and physical pain, lower back pain, and will always suffer at least somewhat from her lower back injury. See Plaintiff's Complaint ¶15. Plaintiff sues for these alleged damages as well as all others allowed under Georgia law. *Id.* On or about April 19, 2012, Plaintiff, by and through her attorney, demanded the sum of \$500,000.00 to settle this case. A true, correct and complete copy of her demand letter is attached hereto as Exhibit "A".

7.

The amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

8.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiffs and Defendant.

9.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendant has attached as Exhibit "B" copies of all the pleadings that were provided to and served upon Defendant, including copies of all pleadings that have been filed to date in the State Court of Houston County, Georgia for the above-styled case.

10.

Pursuant to 28 U.S.C. § 1446, Defendant is not required to file a removal bond.

11.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

12.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Houston County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendant prays that the above-captioned lawsuit be removed to the United States District Court for the Middle District of Georgia, Macon Division.

McLAIN & MERRITT, P.C.

/s/ Albert J. DeCusati

Albert J. DeCusati
Georgia Bar No. 215610
Attorney for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta, GA 30326-3240
(404) 266-9171
(404) 364-3138 (fax)
adecusati@mclain-merritt.com

The undersigned counsel certifies that the foregoing Notice of Removal has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Albert J. DeCusati
Albert J. DeCusati

CERTIFICATE OF SERVICE

This is to certify that on June 14, 2012, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Albert J. DeCusati
Albert J. DeCusati
Georgia Bar No. 215610
Attorney for Defendant
WAL-MART STORES, INC.

3445 Peachtree Road, N.E.
Suite 500
Atlanta, GA 30326-3240
(404) 266-9171
(404) 364-3138 (fax)
adecusati@mclain-merritt.com